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**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
MISSOULA DIVISION**

SAMANTHA ALARIO, *et al.*,

*Plaintiff,*

TIKTOK INC.,

*Consolidated Plaintiff;*

**V.**

AUSTIN KNUDSEN, *in his official  
capacity as Attorney General of the  
State of Montana,*

*Defendant.*

Lead Case No.

CV 23-56-M-DWN

Member Case No.

CV 23-61-M-DWN

**BRIEF OF *AMICUS CURIAE* FOR  
THE INSTITUTE FOR  
FAMILY STUDIES**

***AMICUS'S INTEREST***

As the preeminent research institute on the American family, the Institute for Family Studies (IFS) has achieved excellence in identifying relationships between family formation and social and economic phenomena. Its work has been featured

in *The New York Times*, *The Wall Street Journal*, *The Washington Post*, *The Atlantic*, and countless other publications. Colleagues continually refer to our work to advance family well-being. IFS encourages state legislators to consider the wealth of evidence that social media, and especially TikTok, are harmful to American youth.

Several years ago, because of the extraordinary effect that social media was having on American families—mainly, American adolescents—IFS undertook study of the problem and sought to provide policy papers with solutions. We have also published several dozen editorials on how social media affects family life. Our work has led us to conclude that having access to TikTok is bad for America’s teens. We write in support of Senate Bill 419.

## **INTRODUCTION**

Granting TikTok’s Motion for Preliminary Injunction is not in the public interest. In our brief, we discuss the mountains of evidence concerning the harm social media in general and TikTok poses explicitly to children. IFS research and scholars firmly agree that the effects of social media in general are severely averse to children’s mental health and, at times, physical health.

The practical effect of Montana’s SB 419 means that children in the state are no longer in threat of the harm TikTok brings to children. The public interest serves no benefit of having TikTok available as the Court evaluates the merits of its case.

## ARGUMENT

### **I. The Public Interest Serves No Benefit By the Court Allowing TikTok to Continue to Harm Children While the Court Assesses Its Claims**

Consolidated Plaintiffs seek a preliminary injunction on the State’s enforcement of SB 419. Doc. No. X (“Plaintiffs’ Motion”). As part of the analysis, a Court must consider whether “an injunction is in the public interest.” *Recycle for Change v. City of Oakland*, 856 F.3d 666, 669 (9<sup>th</sup> Cir. 2017) (citing *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008)). The Ninth Circuit has consistently held that “even if plaintiff[s] demonstrate[] likely success on the merits, the plaintiff[s] must [also] demonstrate...the tipping of the public interest in favor of an injunction.” *Vivid Entertainment, LLC v. Fielding*, 774 F.3d 566, 577 (9<sup>th</sup> Cir. 2014). Thus, it is important for the Court to carefully evaluate whether granting Plaintiffs’ motion for preliminary relief is actually in the public interest. “The public interest inquiry primary addresses impact on non-parties rather than the parties.” *Portland General Electric Co. v. Northwestern Corp.*, 567 F.Supp.3d 1203, 1213 (D. Mont. 2021) (citing *Inst. of Cetacean Research v. Sea Shepherd Conservation Soc.*, 725 F.3d 940, 946 (9<sup>th</sup> Cir. 2013)).

Courts have denied a plaintiff’s motion for a preliminary injunction for a wide array of reasons. Harms to public health and safety rank high on the list of considerations. *E.g.*, *Winter*, 555 U.S. at 377 (denying plaintiffs’ motion for preliminary injunction due to “adverse impact” of public safety and national

defense); *see also Am. Beverage Ass’n v. City and County of San Francisco*, 187 F.Supp.3d 1123 (N.D. Cal. 2016) (holding that “the public interest weighs in favor of the City, as the City is taking legitimate action to protect public health and safety.”).

IFS contends that TikTok cannot demonstrate its perceived right to contract with its parent company ByteDance outweighs the severe adverse and unique impact the app has on kids’ mental and physical health. Indeed, preventing children from accessing such a dangerous tool is more in the public interest than allowing them to access it, while the Court evaluates the merits of the parties’ claims. In that vein, IFS offers the Court the following considerations regarding social media and, specifically, TikTok’s harmful effects on children that should weigh against granting Plaintiffs’ Motion.

## **II. TikTok Is Harmful Effect to Kids**

Montana’s S.B. 419 is a consumer protection measure at its core. Protecting children is chief among Montana’s legislature’s intent. Indeed, S.B. 419 rightly notes that TikTok “promote[s], dangerous content that directs minors to engage in dangerous activities...” S.B. 419 Preamble. This is an undeniable fact.

TikTok has taken the digital lives of American youths into unprecedented territory. Though only a relatively recent entrant into the U.S. social media market, TikTok presents a particular danger for America’s youth. Since it was acquired by

ByteDance in 2017, TikTok has dominated users' time, quickly surpassing all other rival platforms in downloads and duration. Nearly a third of Americans of all ages spend more than an hour on the app daily. Brandon Doyle, *TikTok Statistics-Updated August 2023*, WALLAROO MEDIA (Aug 7, 2023), <https://wallaroomedia.com/blog/social-media/tiktok-statistics/>.

With over one billion monthly active users, it ranks fourth globally among social media platforms. *Ibid.* And in 2022, TikTok was named first among social media in downloads worldwide. Lauren Forristal, *Tiktok was the Top App in Worldwide Downloads in Q1 2022*, TECHCRUNCH (Apr 26, 2022), <https://techcrunch.com/2022/04/26/tiktok-was-the-top-app-by-worldwide-downloads-in-q1-2022/?guccounter=1>. More than any other social media platform, TikTok appeals to the youngest—and ever younger—market possible. In 2020, a Pew Research Center survey found that 30% of 9-to-11-year-olds used TikTok, whereas only 22% and 11% said they used Snapchat and Instagram, respectively. Brooke Auxier, Monica Anderson, Andrew Perrin & Erica Turner, *Parenting in the Age of Screens*, PEW RESEARCH CENTER (Jul. 28, 2020), <https://www.pewresearch.org/internet/2020/07/28/childrens-engagement-with-digital-devices-screen-time/> Daily use of TikTok also surpasses competitors. In 2021, the market research of Facebook, then Instagram's parent company, found that teens spent two to three times more time on TikTok than Instagram. Jeff

Horwitz & Georgia Wells, *Facebook's Effort to Attract Preteens Goes Beyond Instagram Kids, Documents Show*, WALL STREET JOURNAL (Sep 28, 2021), <https://www.wsj.com/amp/articles/facebook-instagram-kids-tweens-attract-11632849667>.

Social media companies indeed pose a grave danger to children. In May 2023, Surgeon General Vivek Murthy issued a public advisory warning explaining that social media's mental health effects have created an "urgent public health issue" for young Americans. U.S. Surgeon Gen. Office, *Social Media and Mental Health: The U.S. Surgeon General's Advisory* (2023), <https://www.hhs.gov/sites/default/files/sg-youth-mental-health-social-media-advisory.pdf>. Murthy writes that, "nearly 40% of children ages 8–12 use social media." *Ibid* at p 4. Murthy stated that there "are ample indicators that social media can...have a profound risk of harm to the mental health and well-being of children and adolescents." *Ibid* at p 4. Because of the critical period of adolescent brain development, during ages 10 to 19, when the brain matures, Murthy advises that they may be "especially susceptible" to harm and undue influence by these platforms. *Ibid* at p 5.

Psychologist and IFS contributor Jean Twenge finds significant evidence of social media's negative relationship with mental health:

“Claims that the links between social media use and depression are ‘small’ fail on multiple points. With heavy users twice as likely to be depressed as light users, it seems odd to describe the links as small. The associations are just as large as factors subject to public health interventions like smoking, obesity, and lead exposure.” Twenge, J, “Teenage Girls are in Trouble. It’s Time to Acknowledge Social Media’s Role,” Jean Twenge, *Teenage Girls Are in Trouble. It’s Time to Acknowledge Social Media’s Role*, IFS (Feb 23, 2023), <https://ifstudies.org/blog/teenage-girls-are-in-trouble-its-time-to-acknowledge-social-medias-role>.

IFS senior fellow W. Bradford Wilcox summarized the current research on the effect of Big Tech platforms on teen mental health:

“In the past decade, anxiety, depression and teen suicide have surged, especially among girls, since the mass adoption of smartphones around 2010. Depression more than doubled, from 12% in 2010 to 26% today for teen girls. Emergency room visits for self-inflicted injuries almost doubled over the same period, again for teen girls. And teen suicide among girls has risen to a 40-year high.” W. Bradford Wilcox, *It’s Time to Treat Big Tech Like Big Tobacco*, IFS (Jan 20, 2023), <https://ifstudies.org/blog/its-time-to-treat-big-tech-like-big-tobacco>.

TikTok presents the gravest harm. TikTok fosters injurious social behaviors through its addictiveness and the false authority granted to so-called “influencers.” Through viral challenges, such as “Devious Licks,” for instance—which, through influencers, encourages teens to steal someone’s pants or shoes as they use the bathroom, damage school property, or target the property of school staff—TikTok fosters an antisocial environment. Kim Bellware, “*Students are destroying bathrooms, swiping school supplies in latest TikTok challenge gone awry*,” THE

WASHINGTON POST (Sep. 17, 2021),

<https://www.washingtonpost.com/technology/2021/09/17/devious-licks-tik-tok/>.

TikTok’s algorithm encourages children to engage in deadly “challenges,” such as the notorious “Benadryl Challenge,” which claimed the life of 13-year-old Jacob Stevens. At the algorithm’s urging, Stevens ingested large doses of Benadryl, and filmed it live. Stevens died on a ventilator almost a week later. Michelle Watson & Carma Hassan, *A 13-Year-Old Boy Died in Ohio After Participating in a Benadryl TikTok ‘Challenge,’* CNN (Apr. 19, 2023, 11:01 AM),

<https://www.cnn.com/2023/04/18/us/benadryl-tiktok-challenge-teen-death-wellness/index.html>. But how? *Ibid.*

Myriad TikTok challenges directly harm children. Kyra Colah, *7 Dangerous TikTok Challenges for Kids That Parents Must Know About: ‘Extreme And Risky,’* Fox News (Mar. 18, 2023, 2:47 PM), <https://www.foxnews.com/lifestyle/7-dangerous-tiktok-challenges-kids-parents-must-know-extreme-risky>. In TikTok’s “Blackout Challenge,” kids choke one another until they pass out. Its “Dragon’s breath” challenge, which encourages kids to eat a candy-coated liquid nitrogen snack, sent some to the hospital. Its “Beezin’ challenge” has kids rub Burt’s Bees lip balm into their eyelids to get high. Sravasti Dasgupta, *More Than 20 Children Hurt in Indonesia After Eating ‘Dragon’s Breath’ Street Snack for TikTok Trend,* INDEPENDENT (Jan. 17, 2023), <https://www.independent.co.uk/asia/southeast->



[asia/indonesia-children-dragons-breath-tiktok-b2263560.html](https://www.nytimes.com/2023/07/03/asia/indonesia-children-dragons-breath-tiktok-b2263560.html). In reality, these so-called challenges are just social contagions.

The platform keeps kids on the app by hosting *monetized* influencers who offer users mental health “life hacks” with which they can self-diagnose and self-cure.

Asia Grace, *‘Brain Flossing’ Hailed as Calming Mental Health Hack: ‘Brought Me to Tears,’* N.Y. POST (Jul. 3, 2023), [https://nypost.com/2023/07/03/brain-flossing-](https://nypost.com/2023/07/03/brain-flossing-hailed-as-mental-health-hack-brought-me-to-tears/)

[hailed-as-mental-health-hack-brought-me-to-tears/](https://nypost.com/2023/07/03/brain-flossing-hailed-as-mental-health-hack-brought-me-to-tears/) The extreme risk is that as

young users investigate their own mental health problems, in many cases

manifesting symptoms they did not present before their self-study, such as the

“TikTok tic.” Kids are algorithmically lured into staying on the app, when they

should be alerting a parent or guardian, or even seeking professional help. Henry

Ford Health Staff, *Why Is TikTok Giving Teen Girls Tics?*, HENRY FORD HEALTH

(Mar. 21, 2022), [https://www.henryford.com/blog/2022/03/tiktok-giving-teen-](https://www.henryford.com/blog/2022/03/tiktok-giving-teen-girls-tics)

[girls-tics](https://www.henryford.com/blog/2022/03/tiktok-giving-teen-girls-tics). When one considers the demographic to which TikTok caters among

both users and influencers—the youngest of any social media platform—the risk of

uneducated, inexperienced diagnoses becomes more apparent. Jack Shepard, *21*

*Essential TikTok Statistics You Need to Know in 2023*, SOCIAL SHEPARD (May 15,

2023), [https://thesocialshepherd.com/blog/tiktok-](https://thesocialshepherd.com/blog/tiktok-statistics#:~:text=TikTok%20is%20Most%20Popular%20With%20Younger%20Ge)

[statistics#:~:text=TikTok%20is%20Most%20Popular%20With%20Younger%20Ge](https://thesocialshepherd.com/blog/tiktok-statistics#:~:text=TikTok%20is%20Most%20Popular%20With%20Younger%20Ge)

[nerations&text=Here%27s%20how%20it%20all%20breaks,39%20is%2021.7%25%20of%20users](#) .

IFS research shows that certain populations prove particularly at risk for technological addiction. Racial minorities and the less educated spend more time on their devices. A 2022 report by IFS and Brigham Young University’s Wheatley Institute showed that children residing in nonintact families—*i.e.*, those who don’t live with married parents—suffer disproportionately from tech addiction.

Unfortunately, “Children being raised in non-intact families [tend to] have fewer rules guiding their use of technology and more exposure to that technology.”

Erickson, J., Jean Twenge, Wendy Wang, & Brad Wilcox, *Teens and Tech Report*, IFS (2022), <https://ifstudies.org/ifs-admin/resources/reports/teensandtech-final-1.pdf>. Children in non-intact homes spend almost two hours more on their devices than their peers who live with married parents. *Ibid* at p 5. Additionally, their guardian is less likely to limit time on social media and not allow devices after bedtime or at meals. *Ibid* at p 6. This makes TikTok an extremely influential force for children living in those situations.

Further, six out of ten children ages twelve and under received parents’ permission to open social media accounts, although it is illegal under the 1998 law that regulates the online activity of teens, the Children’s Online Privacy Protection Act (COPPA). *Ibid* at p 10. A 2021 report found that children between ages 8 and

12 were spending over 5 hours a day online, and teens ages 13 to 18 were spending more than 8 hours a day on their devices. Common Sense, *The Common Sense Consensus: Media Use by Tweens and Teens*, 2021, COMMON SENSE MEDIA WEBSITE (Mar. 9, 2022), <https://www.commonsensemedia.org/research/the-common-sense-census-media-use-by-tweens-and-teens-2021>. In an important tech policy report, IFS noted that “teens who spend five or more hours a day on social media are twice as likely to be depressed as those who do not use social media.” Adam Candeub, Clare Morrell, Jean Twenge, & Brad Wilcox, *Protecting Teens from Big Tech: Five Policy Ideas for States*, IFS (2022), <https://ifstudies.org/ifs-admin/resources/final-ifs-eppc-protectingteensfrombigtech-aug2022.pdf>.

Hanging as a specter over the above, is TikTok’s relationship to the Chinese government. As IFS executive director Michael Toscano has summarized in *Compact Magazine*, “[TikTok is] controlled by the Chinese government through its parent company, the China-based ByteDance.” Michael Toscano, *The Case for Banning TikTok*, COMPACT (Dec. 30, 2022), <https://compactmag.com/article/the-case-for-banning-tiktok>. “Recordings of internal TikTok meetings leaked to investigative reporters reveal,” Toscano said, “that US user data flows back to ByteDance in China, which is required by Chinese law to share user data with the ruling Communist Party.” *Ibid.* TikTok, in effect, is providing the Chinese

government a port into our children's most intimate selves by hooking them on its product.

We must consider how TikTok's method of operation is so addictive and dangerous by design by referring to TikTok's own internal document, "TikTok Algo 101," which was drafted by TikTok's engineering team in Beijing and first reported upon by *The New York Times* in December 2021. Ben Smith, *How TikTok Reads Your Mind*, **THE N.Y. TIMES** (Dec. 5, 2021),

<https://www.nytimes.com/2021/12/05/business/media/tiktok-algorithm.html>

("NYT 2021 Article"). The first critical revelation is that while TikTok may operate under the guise of "social media," its algorithm is not designed for sociality. Unlike Facebook, to provide one contrast, a TikTok user's feed is not a timeline that compiles the life events of friends and family, which can be viewed in a stream. In his expose, *The New York Times* journalist Ben Smith summarized thusly, "[TikTok] displays an endless stream of videos and, unlike the social media apps it is increasingly displacing, serves more as entertainment than as a connection to friends." *Ibid.*

A 2019 *New York Times* article on TikTok provides a more expansive view:

The most obvious clue [to what TikTok is] is right there when you open the app: the first thing you see isn't a feed of your friends, but a page called 'For You.' It's an algorithmic feed based on videos you've

interacted with, or even just watched. It never runs out of material. **It is not, unless you train it to be, full of people you know, or things you’ve explicitly told it you want to see.** It’s full of things that you seem to have demonstrated you want to watch, no matter what you actually say you want to watch... Stimulation is constant. There is an unmistakable sense that you’re using something that’s expanding in every direction. The pool of content is enormous. Most of it is meaningless. Some of it becomes popular, and some is great, and some gets to be both. John Herrman, *How TikTok Is Rewriting the World*, THE N.Y. TIMES (Mar. 10, 2019), <https://www.nytimes.com/2019/03/10/style/what-is-tik-tok.html> (“NYT 2019 Article”).

*The Atlantic*’s Taylor Lorenz explained that “[w]atching too many in a row can feel like you’re about to have a brain freeze. They’re incredibly addictive.”

[emphasis added] Taylor Lorenz, *TikTok Is Cringey and That’s Fine*, THE

ATLANTIC (Oct. 25, 2018),

<https://www.theatlantic.com/technology/archive/2018/10/what-tiktok-is-cringey-and-thats-fine/573871/>.

The TikTok feed is not shaped by meaningful social relationships. It resists the explicit direction of users. While TikTok’s algorithm considers traditional metrics such as “likes and comments as well as video information like captions, sounds and hashtags,” in organizing a user’s feed, it puts greatest weight on replicating the content a user tends to return to and which she tends to view for the greatest duration. NYT 2021 Article. This means that users cannot direct the feed away from content that they may be drawn to by addiction and compulsion.

In this “rabbit hole” phenomenon, by engineering, children fall into content they never asked to see and are whisked to dark places they never sought. As Smith says, “[this] process can sometimes lead young viewers down dangerous rabbit holes, in particular toward content that promotes suicide or self-harm.” *Ibid.* The algorithm does not heed what users would prefer to watch—*i.e.*, what they would select if given a fair opportunity to make a selection, but instead pushes whatever attracts the most of the user’s time or interaction, even if for negative reasons.

The algorithm is not organized in view of any obvious social dimensions and, by design, it resists user formation. If TikTok were not credibly suspected of being a surveillance tool by the Chinese Communist Party, we would be justified to conclude that the TikTok algorithm operates autonomously. When a child is scrolling through her feed, she has little to no agency. TikTok’s algorithm is the dominant agent.

The very nature of the app, resists adequate monitoring by parents or guardians. Under the severe pressure of many prospective state and federal laws to regulate the app, in July 2022 the platform introduced tools so that parents can ostensibly customize the experience of their children. Andrew Hutchinson, *TikTok Launches New Tools to Help Protect Users from Potentially Offensive and Harmful Content*,

SOCIAL MEDIA TODAY (Jul. 13, 2022),

[https://www.socialmediatoday.com/news/tiktok-launches-new-tools-to-help-](https://www.socialmediatoday.com/news/tiktok-launches-new-tools-to-help-protect-users-from-potentially-offensive/627208/)

[protect-users-from-potentially-offensive/627208/](https://www.socialmediatoday.com/news/tiktok-launches-new-tools-to-help-protect-users-from-potentially-offensive/627208/). Family Pairing, the primary vehicle for these capabilities, requires parents to create and operate their own accounts, which is no easy feat, as evidenced by the numerous articles teaching parents how to use them. Sara Morrison, *TikTok Isn't Really Limiting Kids' Time on Its App*, VOX (Mar. 2, 2023, 7:00 AM),

[https://www.vox.com/recode/2023/3/2/23620393/tiktok-screen-time-limit-parents-](https://www.vox.com/recode/2023/3/2/23620393/tiktok-screen-time-limit-parents-ban)

[ban](https://www.vox.com/recode/2023/3/2/23620393/tiktok-screen-time-limit-parents-ban). Even with these tools, no parent could possibly monitor the sheer volume of content that a child consumes. Unless parents watch every video from start to finish, they will never be able to make an informed decision about whether the app is good or bad for their children. TikTok presents videos in such rapid succession, with quick adjustments depending on users' habits and responses, that it is virtually impossible to know what a child is viewing. Their feed can evolve from one day, one hour, to the next. This variety is another component that keeps kids hooked. No two visits on the site will be exactly the same. These parental controls don't work.

Also, the platform shares YouTube's visual appeals and the intimate power of video. But the average TikTok creator is significantly younger than the typical viral YouTuber, and TikTok videos tend to be even more intimate. TikTokers don't

only show their face and bedroom, but often record as they move around these spaces and other places that they frequent, such as their school, neighborhood, and gym, exposing friends, family, and strangers as well. TikTok thus destroys young users' agency, intimate social connections, and privacy in one fell swoop.

Social media companies have failed to protect underaged users, and TikTok is particularly dangerous for their mental health due to its addictive qualities. Ultimately, content is much less controllable and trustworthy on TikTok than on any other social media platform. It is not a *social* platform; it does not help youth deepen real life friendships or have thoughtful considerations. There is nothing TikTok offers which is not available by safer avenues.

The American iteration of TikTok is so dangerous to children that the Chinese government itself does not allow it in its jurisdiction. For example, Douyin—China's TikTok counterpart—is not allowed to provide the same content that TikTok shows to American kids. Zeyi Yang, *How China Takes Extreme Measures to Keep Teens Off TikTok*, MIT TECHNOLOGY REVIEW (Mar. 8, 2023, <https://www.technologyreview.com/2023/03/08/1069527/china-tiktok-douyin-teens-privacy/>). Instead, China restricts Douyin to showing children edifying material and rigorously excludes content that could threaten the moral and spiritual welfare of Chinese youths. *Ibid.* Even with these measures, the Chinese government placed a 40-minutes-per-day restriction on Douyin for users under the



age of 18. Put perhaps oversimply, China has shown itself gravely concerned that overexposure to the platform itself—even if restricted to edifying content—could be damaging to its young population. *Ibid.*

The strong actions of the Chinese government bring to the fore the true nature of TikTok. It is why the state of Montana’s work to reign in this powerful product of a foreign adversary is necessary to protect American youth. As Tristan Harris, founder of the Center for Humane Technology, recently told 60 Minutes, “It’s almost like they [the Chinese government] recognize that technology is influencing kids’ development, and they make their domestic version a spinach version of TikTok, while they ship the opium version to the rest of the world.” 60 Minutes, *TikTok in China Versus the United States*, YOUTUBE (Nov. 8, 2022), <https://www.youtube.com/watch?v=0j0xzuh-6rY>.

### **III. If TikTok Is Not Safe for Government Officials, Then It Is Not Safe for Our Children**

In more than thirty states, currently, TikTok is banned from the devices of government employees. Petrina Darrah, *TikTok is Banned in Over 30 US States: Here’s What That Means for Tourism Marketing*, CrowdRiff (last visited Sep. 8, 2023), <https://crowdriff.com/resources/tiktok-banned-us-states-what-that-means-tourism-marketing/>. On December 30, 2022, as part of a new appropriations bill, President Biden signed a federal ban into law. David Ingram, *Biden Signs TikTok Ban for Government Devices, Setting Up a Chaotic 2023 for the App*, NBC NEWS

(Dec. 30, 2022), <https://www.nbcnews.com/tech/tech-news/tiktok-ban-biden-government-college-state-federal-security-privacy-rcna63724>. Several U.S. allies, such as the U.K., Canada, and France, have taken similar steps. India has gone further and banned the app nationwide. Sapna Maheshwari & Amanda Holpuch, *Why Countries Are Trying to Ban TikTok*, THE N.Y. TIMES (Aug. 16, 2023), <https://www.nytimes.com/article/tiktok-ban.html>. The Court should acknowledge that governments have not taken the same measures against Instagram, or Snapchat, or Reddit, or any other social media services. Why? Because TikTok presents a unique threat—ByteDance’s relationship with the CCP.

But there is another extreme surveillance danger that TikTok poses which these above measures do not address. As *The Guardian* reported, an analysis of TikTok’s source-code by Internet 2.0, a joint US and Australian cybersecurity firm, has discovered that the app’s data-harvesting practices are “excessive” and what the firm’s CEO calls “aggressive.” Rafqa Touma, *TikTok Has Been Accused of ‘Aggressive’ Data Harvesting you’re your Information At Risk?*, *The Guardian* (Jul. 19, 2022), <https://www.theguardian.com/technology/2022/jul/19/tiktok-has-been-accused-of-aggressive-data-harvesting-is-your-information-at-risk>. The app, *The Guardian* writes, can “collect user contact lists, access calendars, scan hard drives including external ones, and geolocate devices on an hourly basis.” *Ibid*. The report finds that none of these data collections assist in the operation of the app; which

suggests to the authors that, whatever the stated objectives of the app, its real purpose is data collection itself. *Ibid.* The extreme risk of millions of American children hourly emitting geolocation data, providing, potentially, a textured map of the United States has been underexamined.

Perhaps the gravest threat of all is that this seemingly autonomous algorithm is in fact designed to re-shape the identity and personality of American kids, making them pliant to behaviors that, we have seen, the CCP finds destructive among its own youth. We know that it does shape behavior. Prudence demands that we not give TikTok the benefit of the doubt as to whether it is intentional or not. Senate Bill 419 relieves the children of Montana of being objects of surveillance and manipulation. They deserve nothing less.

If TikTok is not safe for our government to use, why is it appropriate to subject our children to it? These factors should also weigh against granting TikTok's motion for preliminary relief.

## **CONCLUSION**

IFS supports SB419 without reservation. For all of the foregoing reasons, IFS respectfully requests that the Court deny Plaintiffs' motion for preliminary relief.

Dated: September 21, 2023

Respectfully submitted,

BLACKTAIL LAW GROUP, PLLC

s/s Abby J. Moscatel

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## **CERTIFICATE OF COMPLIANCE**

Pursuant to L.R. 7.1(d), I certify that the Brief of Amicus Curiae for The Institute for Family Studies is printed with proportionately spaced Times New Roman text typeface of 14 points; is double spaced; and the word count is 3883 words, excluding the caption, signature block, and Certificate of Compliance.

DATED this 21<sup>st</sup> day of September 2023.

Respectfully submitted,

s/s Abby Jane Moscatel

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Amicus Counsel for Institute for Family Studies

## **CORPORATE DISCLOSURE STATEMENT**

Pursuant to Local Rule 7.5(b)(2)(B), *Amicus Curiae* Digital Progress Institute (“Institute”) files this Corporate Disclosure Statement, which complies with the requirements of Federal Rule of Civil Procedure 7.1.

The Institute hereby discloses that it is a 501(c)(4) District of Columbia organization, and has no parent corporation, nor does any publicly held corporation own 10% or more of its stock.

Dated: September 21, 2023

Respectfully submitted,

s/s Abby Jane Moscatel

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Amicus Counsel for Institute for Family Studies

### **CERTIFICATE OF SERVICE**

I hereby certify that on September 21, 2023, an accurate copy of the foregoing document was served electronically through the Court's CM/ECF system on registered counsel.

/s/ Abby Jane Moscatel

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Abby Jane Moscatel